

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 78**

---

**Introduced by Assembly Member Mendoza**

January 3, 2011

---

An act to add Section 43.2 to the Civil Code, relating to immigrants' rights.

### LEGISLATIVE COUNSEL'S DIGEST

AB 78, as amended, Mendoza. Immigrants' rights.

Existing law provides that every person has certain rights subject to the qualifications and restrictions provided by law.

This bill would provide that a person without legal authority to reside in the United States but who has continuously resided in California since January 1, 2007, ~~has~~ *shall have* the same rights *and responsibilities* that are afforded to any other legal permanent resident in this state pursuant to the California Constitution and any other state or local law or regulation, if the person is in compliance with certain requirements. The bill would require the Governor to seek certain federal waivers in that regard.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2     following:

1 (a) Immigrants are a vibrant, productive, and vital part of  
2 California's growing economy, diverse cultural fabric, and  
3 changing demographics.

4 (b) Immigrants and their children comprise nearly one-half of  
5 California's population and live and work in all 58 counties, most  
6 notably in the San Diego, central valley, *greater* Los Angeles, and  
7 greater San Francisco Bay regions of the state.

8 (c) Immigrants fuel California's economy through their labor  
9 and entrepreneurship, comprising approximately one-third of  
10 California's labor force and figuring prominently in key economic  
11 sectors such as agriculture, construction, manufacturing, and  
12 services.

13 (d) A national debate is raging across the United States focused  
14 on how to fix our broken immigration system ~~and this debate is~~  
15 ~~tearing at the very core of our founding values.~~, *yet the federal*  
16 *government has failed to enact reasonable reforms after 10 years*  
17 *of consideration.*

18 (e) This national discussion demands an intelligent;  
19 ~~comprehensive~~, and balanced approach to immigration  
20 reform—one that recognizes that Americans want ~~neither open~~  
21 ~~borders, nor closed borders, but that they want the President and~~  
22 ~~the Congress of the United States to work together to enact~~  
23 legislation that rewards work, reunites families, restores the rule  
24 of law, reinforces our nation's security, respects the rights of United  
25 States-born and immigrant workers, and redeems the "American  
26 Dream."

27 (f) A bipartisan, ~~comprehensive workable~~ immigration reform  
28 package must be based on respect for human rights; a path ~~towards~~  
29 *toward* permanent residency and citizenship; *humane* enforcement  
30 of border policies;; protecting the wages and working conditions  
31 of all workers, whether United States-born or immigrant workers;  
32 reunification of families; and the promotion of citizenship and  
33 civic participation.

34 (g) *Given the recent failure of the federal government to enact*  
35 *such changes, California must act by approving policies that extend*  
36 *fair and equitable treatment and rights to its "unauthorized" but*  
37 *duly qualified state resident immigrant population until the time*  
38 *in the future that fair and equitable immigration reform is enacted*  
39 *at the federal level.*

1     (h) *The bipartisan Immigration Reform and Control Act of 1986*  
2     *(Public Law 99-603) signed by President Ronald Reagan contained*  
3     *an acclaimed legalization program that should inform new*  
4     *legislation in California.*

5     SEC. 2. Section 43.2 is added to the Civil Code, to read:

6     43.2. (a) A person without legal authority to reside in the  
7     United States but who has continuously resided in California since  
8     January 1, 2007, shall have the same rights *and responsibilities*  
9     that are afforded to any other legal permanent resident in this state  
10    pursuant to the California Constitution and any other state or local  
11    law or regulation, provided that the person is in compliance with  
12    all of the following:

13    (1) Has not been convicted of a felony, ~~or more than three~~  
14    ~~misdemeanors.~~

15    (2) Is able to establish proof of residency through utility bills,  
16    employment records, tax records, or other equivalent  
17    documentation.

18    (3) Is able to demonstrate proficiency in English, or is enrolled  
19    in, or has applied to enroll in, an English-as-a-second language  
20    class.

21    (4) Prospectively files and pays state income taxes, *and a*  
22    *processing fee*, in a manner to be established by state law, and  
23    federal income taxes in cooperation with federal income tax  
24    authorities in a manner to be determined, whereby the taxes are  
25    paid as if the person holds a social security number.

26    (b) With respect to any rights that may conflict with federal  
27    law, the Governor shall request waivers from the President of the  
28    United States and other appropriate federal authorities to exempt  
29    California residents and businesses from the requirements of those  
30    federal laws as they relate to the persons governed by subdivision

31    (a).